

# **2000 DRUG AND ALCOHOL FREE WORKPLACE PROGRAM**

## **1. PURPOSE**

The purpose of this memorandum is to set forth a policy concerning a Drug and Alcohol Free Work Place.

## **2. STATEMENT**

The County of Mercer is committed to maintaining a drug and alcohol free workplace in order to protect the health and safety of County employees and the public. This policy is in compliance with Federal Law and State guidelines establishing drug and alcohol free workplace policies in government.

## **3. GENERAL BACKGROUND**

Illegal drug and alcohol use is seriously impairing a portion of the national and local work force, resulting in the loss of billions of dollars each year. The County as a large employer in Mercer County has a compelling interest in establishing reasonable conditions of employment. Furthermore, the County is concerned with the well being of its employees and the ability of government to achieve its goals. While the County will provide confidential referrals for any individual with a problem, the illegal use of drugs, which infringes upon the work place, is neither acceptable nor compatible with County employment.

## **4. STATEMENT OF POLICY**

The County has numerous departments, which have different objectives and goals. Some of those departments, such as the Sheriffs Office, Prosecutors Office and Correction Facilities, are involved in law enforcement. Clearly, individuals involved in those types of functions are charged with the enforcement of our drug laws. To suggest that individuals employed in those critical areas can be permitted to use drugs either at home or in the work place provides a clear contradiction to the goals of their particular offices. It is incongruous to suggest that drug users can investigate, arrest, prosecute or guard drug sellers and users. In fact, it is more likely that anyone involved in law enforcement who use drugs may become involved with individuals who are selling or using drugs.

In order to have a successful drug & alcohol free work place program the following components are necessary:

1. A system to distribute information to all employees concerning the hazards of drug and alcohol use.
2. An assistance program which will be open to all employees.
3. Assurances that the system is confidential concerning treatment.

## **5. SCOPE**

The Mercer County Drug and Alcohol Free Workplace program will also involve drug and alcohol testing.

Drug testing will be utilized under the following circumstances.

1. New employee testing.
2. All employees entering a law enforcement field.

3. Reasonable suspicion and/or probable cause testing.

4. Voluntary Testing

5. Follow-Up Testing

6. All testing as required under the federal guidelines with respect to drug and alcohol testing for all employees holding the commercial drivers license (CDL).

The drugs for which individuals should be tested are as follows:

1. Cannabinoids (marijuana), cocaine, amphetamines, phencyclidine (PCP), opiates. Drug testing is to be done by urinalysis. Alcohol testing for CDL purposes and for other employees is to be done by breathalyzer.

## **6. POSITIONS COVERED**

All positions in County Government shall be covered by this policy.

## **7. RESPONSIBILITY**

The Division of Employee Relations shall have the overall responsibility for the drug and alcohol free work place program. The Director of Employee Relations shall be charged with the responsibility of accomplishing the following goals:

1. Arranging for all testing authorized under the program.

2. Insuring that a reliable laboratory is being utilized and the results are accurate.

3. Obtaining the testing of the specimens and the interpretation of results.

4. Transmitting the results of any drug test to the appropriate supervisor.

5. Advising and assisting various manager in taking the appropriate treatment and if necessary disciplinary actions related to positive findings.

6. Establishing a program to publicize and distribute drug program educational material.

7. Establishing training programs and education sessions for all employees regarding drug and alcohol use, and the availability of the County assistance program and rehabilitation programs that are available.

8. Establishing a strong County employee assistance program (currently Metro Employee Advisory Service 396-5877) which will provide counseling and relief services for all employees referred to the program by their supervisor, or by an individual contacting the program on his or her own. The program should be designed to not only provide counseling and referral service but also to provide a monitoring service of all employees that are involved in a rehabilitation program. The program may have drug testing if recommended as part of the monitoring program.

9. Monitoring the progress of all employees who have been referred to the County Employee Assistance Program both during and after rehabilitation.

10. Establishing a training program for all supervisors so they may recognize and document certain facts that will support a finding of probable cause or reasonable suspicion that an employee may be using illegal drugs, to support the requirement of a reasonable suspicion drug test.

11. Providing semi-annual reports to the County Executive concerning all the activities that have taken place

an a result of the drug and alcohol free work place program being implemented.

## **8. EMPLOYEE RIGHTS**

1. All bargaining union employees are entitled to have a union representative accompany them to the site where the collection of a sample will take place. However, the union representative will not have the right to be in the area where the sample itself will be taken nor will they be permitted to interfere with proper test administration. The Union representative may remain in a designated observation area or lobby outside the testing area. Non- bargaining unit employees have the right to have legal representation at the site where the test will be administered. However, the legal representative will not have the right to be in the area where the sample itself will be taken nor will they be permitted to interfere with proper test administration and/or delay the test for an unreasonable period of time.

2. The employee has the right to consult with their union representative for a reasonable period of time prior to arriving at the collection site; however, that consultation cannot be of such a length as to delay or interfere with the scheduled test.

3. No employee should be subjected to urine testing as a punitive measure. All employees will be given a reasonable period of time to review any materials or notices concerning the drug testing program. They may consult for a reasonable time with their union representatives concerning this demand.

4. The County will maintain the right to privacy and confidentiality that is required in all personnel matters.

## **9. APPLICANT TESTING**

**a. COVERAGE.** All prospective employees will be required to undergo a drug test. There is no drug test necessary when an individual is re-assigned. However, if a County employee is going from a non-law enforcement office to a law enforcement office, that individual will be required to take a drug test prior to appointment. Any employee going from a non-CDL title to a CDL required position will be required to take a drug test prior to appointment.

**b. NOTIFICATION.** At the time of notification that a Prospective employee may be selected for a position covered by the program, the applicant will be advised that their prospective employment is contingent upon successful completion of a drug testing, physical examination and in the case of public safety personnel background check and, if applicable, psychological examination.

Any position that is subject to drug testing shall have that fact set forth in any notice concerning a vacancy in a position or make reference to the County's policy on its drug and alcohol free workplace policy in the County's Employee Handbook.

Each prospective employee who is required to go through drug screening shall be given written notice specifying when and where they are required to appear. This notice shall contain the following information:

1. That the employee is entitled to union representation at all stages of the proceedings, except prospective applicants.

2. The right to withdraw from consideration for the vacancy without any record in their official personnel file or other repercussions.

3. The right to apply for future positions after withdrawal; and

4. A statement indicating that if their urine specimen test is confirmed positive, they will be given the opportunity to discuss with a medical officer designated by the County the use of any prescription or over the counter drugs that they have taken, or other pertinent information before a final decision is rendered regarding whether they have used illegal drugs.

Any person tentatively selected for a position where urine testing is a prerequisite to hiring or appointment who decides to withdraw their name from consideration, shall not have a record kept in their personnel folder which indicates their decision not to submit to a drug test.

Drug testing for correction officers in attendance at the training academy (COTA) shall adhere to COTA standards as well as guidelines governing law enforcement drug testing. The same law enforcement standard shall apply to Sheriff's Officers.

Any attempt to substitute another person's urine for or to change, alter or modify the sample or fraudulently change results, may result in disciplinary action against employees and may result in the failure to have applicants appointed to a Position.

All individuals who take tests and have negative readings will be so advised by the Office of Personnel. Any individual who has a positive finding will be so notified by the health care provider implementing the drug testing. These individuals will be given the opportunity to provide evidence to justify the positive findings to the health care provider.

In the case of CDL testing there should always be two (2) samples taken from an individual so an additional test may be made on the second sample if necessary.

## **10. ACTIONS TAKEN**

1. If any employee is found to have been using illegal drugs or abusing alcohol they will be mandatorily referred to the County Employees Assistance Program. If that person occupies a safety sensitive position they will be removed from that position. For CDL employees, the appropriate federal regulations will apply. For law enforcement employees, all appropriate requirements will apply.

Any time an individual has confirmed positive test results demonstrating that they used illegal drugs; they are also subject to disciplinary action. An employee will be given the opportunity to mandatorily attend the County's

Employee Assistance Program. Refusal to attend the County Employee Assistance Program or the completion of a County Employee Assistance Program may be grounds for removal from their position.

2. Any employee who does not wish to challenge the positive findings may voluntarily resign their position.

## **11. TEST REFUSAL**

Any person who refuses to undergo drug testing in conjunction with an employment opportunity will lose consideration for that position; however, subject to any requirements unique to CDL, law enforcement, or other safety sensitive employees, the refusal to submit to a drug test will not exclude an individual from applying for a similar position after a period of two (2) years.

## **12. REASONABLE SUSPICION PROBABLE CAUSE TESTING**

**a. Grounds.** Reasonable suspicion and/or probable cause testing may be based upon, among other things:

1. Observation of drug or alcohol use or possession of narcotics or narcotics paraphernalia, or the physical symptoms of being under the influence of a drug,

2. A pattern of abnormal conduct or erratic behavior;

3. Arrest or conviction for a drug related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking;

4. Evidence that an employee has tampered with a previous drug test, or

5. Post-accident testing as defined under the County's CDL policy.

**b. Procedures.** If a supervisor believes that an employee has been using alcohol or illegal drugs, the supervisor shall gather all the information that they can to support their conclusion. If a probable cause or reasonable suspicion has been established they shall provide in writing, the reasons to the Office of Personnel and to the Office of Security Operations for their review. The reports should contain the following information-

1. Dates and times of reported drug or alcohol related activities.
2. A description of how the information concerning the drug or alcohol activity was obtained.
3. The reasons for the supervisor's belief that a drug or alcohol test should be required.
4. Any and all evidence of any nature which the supervisor believes justifies the reasonable suspicion or probable cause for testing.

If individuals are directed to submit a urine sample as a result of reasonable suspicion or probable cause, they will be directed to a location for collection of the sample within two (2) hours of receiving their notification. Appropriate procedures, including use of photographic I.D., should be used to insure the person directed to have a sample taken is the one that in fact given the sample.

If a supervisor believes that an employee is unfit for duty as the result of drug or alcohol use, the supervisor shall immediately remove that employee from duty, notify the Office of Personnel and Security Operations and arrange for an immediate test.

### **13. VOLUNTARY TESTING PROGRAM**

Any individual may voluntarily subject himself or herself to random drug testing. Such a person may withdraw from their participation in such voluntary testing program at any time.

### **14. FOLLOW-UP TESTING**

Any employee who tests positive for narcotics or alcohol and is permitted to undergo counseling or rehabilitation for illegal drug use will be subject to unannounced random testing following the completion of such program for a period of one (1) year at a frequency of at least one (1) test per month. Such testing is different and apart from any testing which may be imposed as a component of a counseling or rehabilitation program.

On the day the sample is to be collected, the individual will be notified approximately one (1) hour prior to the actual collection.

### **16. FUNDING OF DRUG USE AND DISCIPLINARY CONSEQUENCES**

a. Determination. An employee may be found to have used illegal drugs based on appropriate evidence, including but not limited to:

1. Direct observation.
2. Evidence obtained from an arrest or criminal conviction.
3. A verified positive test result.
4. An employee's voluntary admission.
5. Other credible evidence.

## **b. Refusal to take Drug Test when Required**

1. Reasonable suspicion and Follow-up. Any employee who refuses to be tested when so required will be subjected to a full range of disciplinary action up to and including removal.
- 2 Applicant testing. Any person who applies for a position will not be considered for that position if they refuse to be tested.
- 3 Any attempt to alter or substitute the specimen in any fashion, will be considered a refusal to take the test.

Also any attempt by an employee to alter or change or forge the specimen results shall result in disciplinary action which may include removal from their position.

## **16. LABORATORY ANALYSIS**

The County will select a certified laboratory for the testing of all specimens.

## **17. TESTING RESULTS**

- a. The County shall be given written notification of all test results.
- b. The employee or applicant shall be provided with complete chain of custody information by the health care provider administering the test.
- c. If there is a positive result then a split-sample portion of the original sample may be sent to another certified laboratory for confirmation at the expense of the employee. If an employee has a positive test they shall be permitted to resign if the resignation is prior to a receipt of a proposed notice of disciplinary action. As stated in Section 9 of this policy, all CDL testing shall adhere to the split sample testing as required under federal regulations.
- d. If the split-sample test is positive, the employee is required to pay for this test. If the split-sample test is negative the County will pay for this second test.

## **18. REHABILITATION**

If any employee is determined to be abusing alcohol or using illegal drugs, that person shall be referred to the County Employee Assistance Program. They will be given an opportunity to voluntarily enter an alcohol or drug rehabilitation program. Such a referral to CAP or the entry into a rehabilitation program of the employee's choice approved by the County's Employee Assistance Program will not prohibit the commencement of disciplinary action should the employee not complete the program. Any rehabilitative efforts by employees may be given consideration in determining the appropriate penalty if necessary to be imposed for abuse of alcohol or illegal drug use.

## **19. ALCOHOL**

No alcoholic beverages shall be consumed during normal working hours and/or overtime or emergency situations. Alcoholic beverages are not permitted in County equipment, in County vehicles, or on County property. The County has the right to search County vehicles if there is reasonable suspicion that employees may be violating the public trust. All CDL holders are subject to testing pursuant to Federal Regulations and the County's CDL Drug and Alcohol testing policy.

## **20. RECORDS AND REPORTS**

The Offices of Personnel and Medical Services shall maintain separate records concerning drug or alcohol testing of any individual. They shall maintain all records concerning the certification of laboratories.

Any employee who is subject to drug or alcohol testing shall have the right to gain access to their records upon written request to the Office of Personnel. An applicant has no right to these records other than to the results of their test.

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